



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 - 601
Regulation title	Food Stamp Program
Action title	Repeal food stamp regulations and replace with a comprehensive new regulation
Document preparation date	October 19, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

This is a joint action to repeal three current regulations and replace them with a new regulation, 22 VAC 40-601. The new regulation will streamline the regulatory structure for the Food Stamp Program, and serve as a comprehensive regulation for the program. The regulation will address eligibility determination through the conversion of weekly or biweekly income to monthly amounts and using a standard amount for the basic cost for telephone service. The regulation will also establish an administrative hearing process to determine intentional program violations. Regulations 22 VAC 40-20, 22 VAC 40-540 and 22 VAC 40-600 will be repealed.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. §271.4 of the Code of Federal

Regulations delegates responsibility to administer the Food Stamp Program within a state to the agency assigned responsibility for other federally funded public assistance programs.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The new regulation will address issues related to the Food Stamp Program that were previously addressed in three separate regulations. The proposed new regulation will provide the following:

- Address the conversion of income to monthly amounts. Local departments of social services must use conversion factors of 4.3 for weekly income amounts and 2.15 for biweekly amounts when calculating income to determine households' eligibility and benefit levels.
- Address the telephone standard amount. Local departments must use a set standard amount for all households for telephone costs instead of actual costs.
- Outline the administrative disqualification hearing process to determine whether food stamp recipients have committed fraudulent acts against the program; to identify persons who commit program violations and to disqualify them from participation; and to establish requirements to advise individuals of the process, findings, and consequences.

The regulation indirectly protects the welfare of food stamp applicants and recipients by ensuring that eligibility and benefit levels are determined in a systematic and uniform manner across the state. The regulation on administrative disqualification hearings seeks to protect recipient households by requiring local departments of social services to follow set procedures for determining whether individuals have committed fraud against the Food Stamp Program.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

Three methods exist in federal regulations to anticipate monthly income for Food Stamp Program purposes when household members receive income on a weekly or biweekly basis. States may elect to: 1) use conversion factors of 2.15 and 4.3 to multiply biweekly and weekly amounts respectively; 2) use a conversion standard that is used for other public assistance programs in the state; or, 3) use the exact amount expected in the month. While the methods are available, two are not practical. There is no reasonable way to anticipate exact amounts to be received in the future and there is no other income conversion standard used by public assistance programs in Virginia. Therefore, the agency uses the conversion factors of 2.15 and 4.3 to calculate monthly income amounts when households expect to receive income for the full month from a specific source.

In calculating telephone costs for basic telephone service, state agencies may choose between using a standard amount or the actual costs for basic service for a single telephone line. There are multiple service providers for Virginia and what constitutes as basic service may vary from provider to provider, or may be dependent on where households reside within Virginia. Having a single rate for the entire state is

less error prone and saves eligibility worker time from having to assess telephone bills for each household or contacting the service provider for each household to determine the cost of providing basic telephone service for one telephone and one line.

Regarding administrative hearings, the process itself is an alternative to having local social services departments pursue all cases through courts to determine if individuals have committed intentional violations of the Food Stamp Program. Representatives of local departments of social services may elect to channel some cases through the court system and decide to go through the administrative route for other cases.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The regulation does not impact the nurturing relationship between parents and their children. The regulation does not alter the rights of parents to direct the education or supervision of children. The regulation neither encourages nor discourages economic self-sufficiency or self pride, nor does it alter responsibility for oneself or family or affect marital commitment.

The regulation may alter disposable family income by potentially changing the amount of food stamp benefits a household receives or by determining that a household is not eligible for benefits. The amount of benefits a household receives helps to supplement the amount of money available for food purchases.

The regulation requires an acceptance of responsibility for one's actions to receive only the food stamp benefits to which the household is entitled rather than to attempt or to receive benefits or additional benefits by intentionally providing misleading or incorrect information on which eligibility is based.